

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
(WESTERN DIVISION)**

JACK D. McCULLOUGH,)	
)	Case No. 3:17-cv-50116
Plaintiff,)	
v.)	Hon. Judge Frederick J. Kapala
)	
BRION HANLEY, et al.,)	Magistrate Judge Iain D. Johnston
)	
Defendants.)	

SEATTLE DEFENDANTS’ MOTION TO EXPAND TIME TO ANSWER DISCOVERY

Defendants, Irene Lau, Cloyd Steiger, and Michael Ciesynski, (“the Individual Seattle Defendants”) by their attorneys, Daniel M. Noland and Elizabeth A. Ekl of REITER BURNS LLP move this Court to expand time for them to answer written discovery. In support thereof, the Individual Seattle Defendants state the following:

1. On July 24, 2017, Seattle Defendants filed a motion to stay based on the pending criminal investigation by the Special Prosecutor in the case *In Re Appointment of Special Prosecutor*, DeKalb County Case No. 16 MR 271. (Dkt. 65.)

2. On October 13, 2017, this Court entered an Order granting in part and denying in part Defendants’ Motion to Stay. (Dkt. 92.) At that time, the Court “anticipate[d] allowing Rule 34 production requests to be served” at the next status hearing on December 19, 2017, which would allow “targeted discovery to proceed expeditiously without implicating an individual defendant’s Fifth Amendment rights.” (*Id.*)

3. During the December 19, 2017 status hearing, the parties reported that initial disclosures had been exchanged but that they had not had an opportunity to review the approximately 20,000 pages of documents. This Court continued the case for status to January 11, 2018, indicating an intent to get “some kind of written discovery on that day.”

4. At the January 11, 2018 status hearing, the undersigned advised this Court that the Special Prosecutor was expected to tender a written report regarding his findings to the Circuit Court on January 18, 2018. The Court then allowed the parties to proceed with written discovery, due on February 13, 2018. The Court also ordered a written status report regarding the Special Prosecutor's investigation be provided to the Court on January 22, 2018, in which any potential conflict with written discovery should be identified. (Dkt. 121.)

5. On January 22, 2018, the undersigned filed a status report with this Court indicating that the DeKalb County case related to the Special Prosecutor's investigation had been continued to February 2, 2018. (Dkt. 122.) This Court then ordered a supplemental written report on the status of the Special Prosecutor's investigation be filed by February 8, 2018. (Dkt. 123.)

6. The undersigned reported to the Court on February 7, 2018 that the DeKalb County case related to the Special Prosecutor's investigation was continued to March 29, 2018. (Dkt. 128.) The Special Prosecutor indicated to the undersigned that he needs to review an additional set of documents in the interim before he is able to issue a report but that he hopes to be able to conclude his investigation prior to that date.

7. For the same reasons set forth in the motion to stay, requiring the Individual Seattle Defendants to answer written discovery before the Special Prosecutor has decided whether to pursue charges will force them to choose between protecting their Fifth Amendment rights and defending the civil lawsuit.

8. Conversely, any delay in these proceedings will be minimal and will not cause prejudice to any party. Indeed, the process of obtaining third party documents is still ongoing. Although it is purportedly forthcoming, the Seattle Defendants have not yet received the document production made to the Plaintiff in response to the subpoena issued to the Illinois State Police and

the Plaintiff is still in the process of obtaining the DeKalb Circuit Clerk's file from the underlying case.

9. The undersigned spoke to Plaintiff's counsel who indicated Plaintiff has an objection to the relief sought.

WHEREFORE, for the reasons set forth herein and any others this Court deems appropriate, the Individual Seattle Defendants request an expansion of time until April 12, 2018 to respond to Plaintiff's First Set of Interrogatories to the Individual Defendants and Plaintiff's First Set of Requests for Production to All Defendants.

Date: February 9, 2018

Respectfully submitted,

/s/ Elizabeth A. Ekl

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CERTIFICATE OF SERVICE

I, Elizabeth A. Ekl, hereby certify that on February 9, 2018, I caused to be served a copy of the foregoing Seattle Defendants' Motion to Expand Time to Answer Discovery to be serve on all counsel of record via CM/ECF electronic filing.

/s/ Elizabeth A. Ekl